

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

DECISION AND ORDER
09-CR-256S

JAMES SMITH

Defendant.

1. On August 5, 2009, the Defendant entered into a written plea agreement (Docket No. 6) and pled guilty to a One Count Felony Information (Docket No. 1) charging a violation of Title 26, U.S.C. 5861(d) (unlawful possession of a sawed-off shotgun which was not registered to the defendant in the National Firearms Registration and Transfer Record).

2. On August 5, 2009, the Honorable Hugh B. Scott, United States Magistrate Judge, filed a Report and Recommendation (Docket No.8) recommending that Defendant's plea of guilty be accepted and the Defendant adjudicated guilty.

3. This Court has not received objections to the Report and Recommendation in accordance with 28 U.S.C. §636(b)(1)(C) and Local Rule 58.2(a)(3).

4. This Court has carefully reviewed *de novo* Judge Scott's Report and Recommendation, the plea agreement, transcript of the proceeding, and the applicable law. Upon due consideration, this Court finds no legal or factual error in Judge Scott's Report and Recommendation, and will accept Judge Scott's recommendation that Defendant's plea of guilty be accepted and that the Defendant be adjudicated guilty as charged.

IT HEREBY IS ORDERED, that this Court accepts Judge Scott's Report and Recommendation (Docket No. 8) in its entirety, including the authorities cited and the reasons given therein.

FURTHER, that the plea of guilty of James Smith is accepted, and he is now adjudged guilty of Title 26, U.S.C. Section 5861(d).

SO ORDERED.

Dated: September 29, 2009
Buffalo, New York

/s/ William M. Skretny
WILLIAM M. SKRETNY
United States District Judge